

Before the
Administrative Hearing Commission
State of Missouri



REEL 'EM IN LLC,)	
)	
Petitioner,)	
)	
vs.)	No. 13-0227 RS
)	
DIRECTOR OF REVENUE,)	
)	
Respondent.)	

DECISION

We grant the Director of Revenue's ("the Director") motion for summary decision.

Procedure

On February 14, 2013, Reel'em In LLC ("Reel'em In") filed a complaint appealing the Director's final decision issued on December 11, 2012, assessing a penalty of \$10,000. The Director filed a motion for summary decision on March 13, 2013. Reel'em In did not respond to that motion.

This Commission may grant a motion for summary decision if the Director establishes facts that entitle him to a favorable decision and Reel'em In does not genuinely dispute those facts. 1 CSR 15-3.446(6). Parties may establish facts by admissible evidence, including a pleading of the adverse party or other evidence admissible under the law. We make the following findings of fact based on the pleadings and affidavits accompanying the Director's motion.

Findings of Fact

1. The Director informed Reel'em In of his final decision to assess \$10,000 in penalties by a certified letter dated December 11, 2012 (the "decision letter").
2. The decision letter also advised that Reel'em In had thirty days to file a complaint with this Commission, pursuant to § 144.261.¹
3. Reel'em In received the Director's decision letter on December 13, 2012.
4. In response to the decision letter, Reel'em In filed a complaint with this Commission on February 14, 2013.
5. February 14, 2013 was more than sixty days after December 11, 2012.

Conclusions of Law

The Director argues Reel'em In's complaint is untimely, and relies on § 144.261, which establishes the limitations period for this action:

Final decisions of the director under the provisions of this chapter are reviewable by the filing of a petition with the administrative hearing commission in the manner provided in section 621.050, RSMo; except that, notwithstanding the provisions of section 621.050, RSMo, to the contrary, such petition must be filed within sixty days after the mailing or delivery of such decision, whichever is earlier.

The decision letter stated Reel'em In was required to file its complaint with this Commission within sixty days of the "date of mailing or delivery" of the Director's decision, whichever is earlier. The decision letter was mailed on December 11, 2012. Sixty days from that date was February 9, 2013. Because February 9, 2013, was a Saturday, the limitations period expired on Monday, February 11, 2013, the next day that was not a Saturday, Sunday, or legal holiday. 1 CSR 15-3.230(1); § 621.205. Reel'em In filed its complaint on February 14, 2013, three days out of time.

¹Statutory references are to the 2000 version of the Missouri Revised Statutes.

The untimely filing of Reel'em In's complaint deprives us of jurisdiction to hear it. *Community Fed. Sav. & Loan Assoc. v. Director of Revenue*, 752 S.W.2d 794, 799 (Mo.), *cert. denied*, 488 U.S. 893 (1988); *Springfield Park Cent. Hosp. v. Director of Revenue*, 643 S.W.2d 599, 600 (Mo. 1984). If we have no jurisdiction to hear the complaint, we cannot reach the merits of the case and can only exercise our inherent power to dismiss. *Oberreiter v. Fullbright Trucking*, 24 S.W.3d 727, 729 (Mo. App. E.D. 2000).

Summary

We grant the Director's motion, and dismiss Reel'em In's complaint because it was not timely filed.

SO ORDERED on April 4, 2013.

/s/ Mary E. Nelson
MARY E. NELSON
Commissioner